

281—6.17(290,17A) Decision and review.

6.17(1) The presiding officer, after due consideration of the record and the arguments presented, and with the advice and counsel of the staff members, shall make a decision on the appeal. The proposed decision shall be mailed to the parties or their representatives by regular mail.

6.17(2) The decision shall be based on the laws of the United States, the state of Iowa and the regulations and policies of the department of education and shall be in the best interest of education.

6.17(3) The decision of the presiding officer shall be placed on the agenda of the next regular board meeting for review of the record and decision unless the decision is within the province of the director to make.

6.17(4) Any adversely affected party may appeal a proposed decision to the state board within 20 days after issuance of the proposed decision.

6.17(5) An appeal of a proposed decision is initiated by filing a timely notice of appeal with the office of the director. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The names and addresses of the parties initiating the appeal;
- b. The proposed decision to be appealed;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision;
- d. The relief sought; and
- e. The grounds for relief.

6.17(6) Appeal procedures.

a. Unless otherwise ordered, within 15 days of a party's filing of the notice of appeal, each appealing party may file exceptions and briefs. Within 10 days after the filing of exceptions and briefs by the appealing party, any party may file a responsive brief;

b. Briefs shall cite any applicable legal authority and specify relevant portions of the record in the proceeding below;

c. Briefs shall be limited to a maximum length of 25 pages; and

d. An opportunity for oral arguments may be given with the consent of the board. Written requests to present oral arguments shall be filed with the briefs.

6.17(7) The board may affirm, modify, or vacate the decision, or may direct a rehearing before the director or the director's designee.

6.17(8) Copies of the final decision shall be sent to the parties or their representatives by regular mail within five days after state board action, if required, on the proposed decision.

6.17(9) No individual who participates in the making of any decision shall have advocated in connection with the hearing, the specific controversy underlying the case, or other pending factually related matters. Nor shall any individual who participates in the making of any proposed decision be subject to the authority, direction, or discretion of any person who has advocated in connection with the hearing, the specific controversy underlying the hearing, or a pending related matter involving the same parties.

6.17(10) Rescinded IAB 8/21/02, effective 9/25/02.